S.B. CIVIL WRIT PETITION NO. 7018/2005.

(LRs OF RAM CHANDRA & ORS. VS. CIVIL JUDGE (JD) & ORS.)

DATE OF ORDER : 14.11.2006.

HON'BLE MR. GOVIND MATHUR, J.

Mr. Kailash Khatri for the petitioner/s.
Mr. R. Bhatnagar for the respondents.

In a suit for eviction from premises, an application is preferred by the defendants to amend the written statement that was filed before the trial court on 16.03.85. By the order impugned dated 29.11.2005, the trial court rejected the application being filed at a belated stage and not with due diligence.

While giving challenge to the order aforesaid, it is contended by counsel for the petitioner – defendant that the learned court below erred materially while rejecting the application under Order 6 Rule 17 of the Code of Civil Procedure being belated without considering the fact that the amendment is necessitated in written statement due to an order dated 05.08.2004 issued by the Government of Rajasthan and copy thereof was provided to the defendant in the month of September 2005 only.

I have perused the application preferred for amendment, wherein it reveals that the amendment is not on basis of order dated 05.08.2004, but is on an order dated 07.07.2000. The order dated 07.07.2000 was in knowledge of the petitioner- defendant since the year 2000 in view of the fact that he is contesting the writ petition No.2910/2000 preferred by the plaintiff respondent giving challenge to the order aforesaid dated 07.07.2000.

In view of it, I do not find any merit in the contention raised by the counsel for the petitioner. The trial court has not committed any error while rejecting the application preferred by the petitioner- defendant under Order 6 Rule 17 CPC that may warrant interference by this Court under Article 227 of the Constitution of India.

Accordingly, this petition for writ is dismissed.

(GOVIND MATHUR)J.

Anil/